

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

St. Ives Laboratories, Inc.
20245 Sunburst Street
Northridge, California 91311

EPA ID No. CAL000047159

Respondent.

Docket HWCA 2008-1694

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and St. Ives Laboratories, Inc., (Respondent) enter into this Consent Order and agree as follows:

1. Respondent generates and handles hazardous waste at 20245 Sunburst Street, Northridge, California 91311 (Site). The Respondent does not have a permit or other grant of authorization from the Department for the treatment, storage and /or disposal of hazardous waste.

2. The Department conducted an investigation at the Site on May 16, 2003.

3. The Department alleges, and the Respondent denies, and nothing in this Consent Order constitutes an admission by Respondent of the following alleged violations:

3.1. California Health and Safety Code, section 25201 (a) - Storage of hazardous waste without a permit or other grant of authorization from the Department.

3.1.1. On May 16, 2003, the Respondent had two 55 gallon drums located in an outside area that were described by the Respondent as "empty" and ready to be sent offsite for recycling but which contained excess residue constituting hazardous waste. Neither of these two drums were labeled as containing

hazardous waste or managed in accordance with the requirements of California Code of Regulations, title 22, section 66262.34, which allows generators to accumulate hazardous waste for up to 90 days without a permit provided they are in compliance with this regulation. In addition, on May 29 and 30, 2003, at PJ Drum Co. located at 4257 Auction Avenue, Unit I, Baldwin Park, California 91706, the Department observed six drums received from the Respondent which contained excess residue constituting hazardous waste received from the Respondent none of which were labeled as containing hazardous waste or managed in accordance with the requirements of California Code of Regulations, title 22, section 66262.34, which allows generators to accumulate hazardous waste for up to 90 days without a permit provided they are in compliance with this regulation.

3.2. California Code of Regulations, title 22, section 66262.11 - Hazardous Waste Determination. On May 16, 2003, Respondent failed to make a proper hazardous waste determination concerning two 55 gallon drums which contained excess residue constituting hazardous waste located in an outside yard area on pallets. In addition, on May 29 and 30, 2003, at PJ Drum Co. located at 4257 Auction Avenue, Unit I, Baldwin Park, California 91706, the Department observed six drums which contained excess residue constituting hazardous waste received from the Respondent for which Respondent failed to make a proper hazardous waste determination.

4. The parties agree that settlement of this matter is in the public interest, and that entry into this Consent Order without litigation is the most appropriate means of resolving this matter.

5. Jurisdiction over the subject matter alleged in this Consent Order exists pursuant to Health and Safety Code section 25187. For purposes of this Consent Order, including enforcement of the terms of this Consent Order, Respondent waives any and all objections it may have to the Department's jurisdiction, and agrees to submit to such jurisdiction.

6. Respondent waives any right to a hearing in this matter.

7. This Consent Order shall constitute full settlement of the violations alleged above, and DTSC will not take any additional enforcement action concerning these alleged violations.

8. Respondent denies all material allegations in this Consent Order.

SCHEDULE FOR COMPLIANCE

9. Respondent shall comply with the following:

9.1.1. If Respondent chooses to store hazardous waste onsite for up to 90 without a permit or other grant of authorization from the Department, or exemption from the permit or authorization requirement, it shall comply with all terms and conditions set forth in California Code of Regulations, title 22, section 66262.34.

9.1.2. Respondent shall make a determination in accordance with California Code of Regulations, title 22, section 66262.11, that the waste it sends from its Site has been properly characterized.

9.1.3. Respondent shall ensure that containers of hazardous waste are not labeled and otherwise managed as empty unless they meet the requirements of "California-empty" as set forth in California Code of Regulations, title 22, section 66261.7.

9.2. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

9.3. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Consent Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

9.4. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

9.5. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times (subject to applicable site safety and escort requirements) for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

9.6. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 11.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

9.7. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

9.8. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

10.1 Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department a total of \$ 20,000. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall note the docket number on the face of the check and shall be sent to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent:

To: Richard L. Jones
Senior Hazardous Substances Scientist
Department of Toxic Substances Control
Enforcement and Emergency Response Program
9211 Oakdale Avenue
Chatsworth, California 91311

To: Debra Schwartz
Staff Counsel
Department of Toxic Substances Control
Office of Legal Affairs
9211 Oakdale Avenue
Chatsworth, California 91311

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

10.2. Respondent hereby agrees to send an employee to the California Compliance School (Modules I through V). Attendance must be completed and the Respondent must submit a Certificate of Satisfactory Completion issued by the

California Compliance School to the Department within 185 days of the effective date of this Consent Order. In recognition of this educational investment, the administrative penalty imposed by this Consent Order has been reduced by \$5,000 provided that the employee satisfactorily completes the specified modules and the Department receives the Certificate of Satisfactory Completion within 185 days of the effective date of this Consent Order. If Respondent fails to submit the certificate as required, the administrative penalty of \$5,000.00 is due and payable within 30 days after the 185-day period expires. The 185-day period may be extended by the Department upon a written request demonstrating good cause from Respondent.

OTHER PROVISIONS

11.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

11.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

11.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

11.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

11.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

Dated: May 29, 2008

Original signed by Gary P. Schmidt

St. Ives Laboratories, Inc. Representative

Dated: May 29, 2008

Original signed by Roberto Kou

Roberto Kou, Unit Chief
Department of Toxic Substances Control